

HEADQUARTERS
CALIFORNIA MILITARY DEPARTMENT
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California Military Dept
Regulation 600-1

MILITARY PERSONNEL ON STATE ACTIVE DUTY

FOR THE GOVERNOR:

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Major General
The Adjutant General



OFFICIAL:

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History. This regulation supersedes CAARNGR 600-1/CAANGI 36-2601 dated 8 February 2008.

Summary. This regulation establishes the Military Department's policy regarding the State Active Duty (SAD) program and is provided as guidance for SAD members and Department leadership.

Applicability. This regulation applies to California SAD service members as identified in paragraph 1-1.

Supplementation. Supplementation of this regulation is not authorized. Proposed changes will be directed to the Director, State Personnel, for coordination prior to submission to The Adjutant General and his/her SAD Management Council for approval and subsequent implementation. Approved changes will be incorporated and announced as changes to this regulation.

Suggested Improvements. The Director, State Personnel is the proponent of this regulation. Users are invited to send comments and suggested improvements to: Office of The Adjutant General, ATTN: Director, State Personnel, P.O. Box 269101, Sacramento, CA 95826-9101.

Annual Review. All SAD Instructions, changes and proposed improvements will be reviewed annually for incorporation into this regulation if appropriate. The Director, State Personnel is responsible for coordinating this annual review during the second quarter of the state's fiscal year.

Distribution. Distribution of this regulation is Army and Air National Guard, Joint Staff, State Military Reserve, and Youth and Community Programs Task Force.

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Chapter 1

Introduction

1-1. Purpose

- a. The purpose of the State Active Duty (SAD) system is to provide a cadre of trained military personnel capable of administering and managing the California Military Department and to provide The Adjutant General with the capacity to immediately respond to unanticipated requirements. The full-time state military force provides California with military capabilities used to prepare for, respond to, and recover from the effects of emergencies regardless of cause, size, location, or complexity. It is a merit-based, career personnel system.
- b. This regulation prescribes policies and procedures for the administration of personnel appointed in a military duty status otherwise known as SAD under the provisions of Section 55, 142, 162 and/or 230, California Military and Veterans Code (CMVC).
- c. This regulation is not applicable to personnel called to SAD for emergency purposes under Section 143, 146, 324 and 326 CMVC. Refer to the Emergency Procedures Manual for Emergency SAD (ESAD) procedures.
- d. This regulation is not applicable to Cadet Corps personnel serving under the provisions of Section 502.1, 502.5, or 505 CMVC.
- e. All personnel actions are based on equal opportunity for all to the maximum extent practical under the law.

1-2. Authority

- a. This regulation is issued under authority of Sections 52, 101-105, 142, and 148 CMVC.
- b. The Adjutant General has authority and responsibility for the administration of the SAD program to include personnel allocation and classification authority. Authority is further delegated to the Director, State Personnel for day-to-day administration, policy recommendations, interagency coordination, and pay determinations related to SAD positions and service members. Any other delegation of authority under this regulation by The Adjutant General shall be made in writing.
- c. The Director, State Personnel shall publish SAD Instructions (SADI) as necessary. SADIs are used to amend this regulation and require TAG approval.

1-3. Exceptions and Waivers

- a. The proponent of this regulation is The Adjutant General. The Adjutant General has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The Adjutant General may delegate this approval authority, in whole or in part, in writing, to the component commanders, the DAG, or the Commander, YCPTF.
- b. Activities requesting a waiver to this regulation will provide justification that includes a full analysis of the expected benefits and a formal review by the Office of the Staff Judge Advocate. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the Director, State Personnel, who will provide recommendation and forward to the waiver authority.

1-4. Duty Status

- a. SAD is military service. Accordingly, service members are subject to the Uniform Code of Military Justice as incorporated by the California Military and Veterans Code, 24 hours per day,

regardless of duty status.

b. SAD service members may be required to perform duty at any time and location. The Military Department will publish policies regarding normal work hours and work weeks as needed.

c. Notwithstanding other law or regulations, The Adjutant General may involuntarily extend service members in the best interest of the Military Department.

1-5. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

Chapter 2 Positions

2-1. General

All service members ordered to SAD under the provisions of this regulation must have an appointment to a permanent position, limited-term position or temporary position. The military grade structure for permanent and temporary positions will be based as closely as possible to military grades established for comparable organizations and positions within the active military services.

2-2. Position Types

a. SAD positions are established in the State budget. Each position requires both an appropriate personnel year (PY) and funding in order to establish the position.

b. There are three types of SAD positions: permanent, limited-term, and temporary.

(1) Permanent and limited-term positions are defined both by grade and classification in the Salary and Wages Supplement (SWS). The only difference is that limited-term positions have a defined end date and permanent positions have no defined end date.

(2) Temporary positions (which are titled “SAD Tour/Temp” in the SWS), are included in the SWS only as a total number of positions with a total budget, and there is no definition of grade or classification.

c. PY’s are used by the State of California to manage overall end-strength of the full-time force. There are only two types of PY’s: permanent and temporary.

2-3. Position Review

a. The California Military Department includes both SAD service members and State Civil Service employees, each of which brings unique strengths to the Department. The Department will periodically review all positions to ensure the position is still required, properly graded and in the appropriate personnel system.

b. All permanent positions will be reviewed when vacant (not to exceed once every four years) or when there is a request to be reclassified.

c. All limited term/temporary positions will be reviewed when vacant (not to exceed once every two years) or when there is a request to be reclassified. In addition, the review for these positions shall consider whether they should be converted to permanent positions.

d. The position description (PD) is the base document that describes the duties, responsibilities, requirements, and qualifications for each position. The Director/Commander will submit an updated PD and supporting documents as required to

support the review.

e. The Manpower and Personnel Advisory Committee (MPAC) is responsible for reviewing all permanent positions with pay rates in their span of control classified E1 through E8, W1 through W3, and O1 through O4.

f. The SAD Management Council (SMC) is responsible for the remainder of the permanent positions with pay rates in their span of control classified E9, W4, W5, O5 and O6.

g. The Director, State Personnel will provide necessary documentation and criteria to facilitate an objective process.

Table 1: Position Reviews			
	Grade		
MPAC	E1 – E8	W1 – W3	O1 – O4
SMC	E9	W4 – W5	O5 – O6

2-4. Establishing Positions

a. Permanent and Limited Term positions will be established through the Budget Change Proposal (BCP) process. Positions will be initially reviewed and validated by the MPAC prior to being considered in the BCP process.

b. The number of temporary positions will not exceed the authority established in the Governor's Budget. Temporary positions are established in conjunction with an appointment as outlined in Chapter 3. Directors/Commanders will submit a request to establish a temporary position through their chain of command to the Director, State Personnel.

2-5. Reclassifying Positions

a. Reclassification of a position may include: a change of primary duties, responsibilities, title, grade, and/or location of a SAD position. All actions will be validated by the Director, State Personnel to ensure reclassification of the position meets The Adjutant General's intent.

b. Directors/Commanders will submit a request for reclassification through the chain of command to the Director, State Personnel. Approval authority for changes of primary duties, and titles will be in accordance with table 2. Requests for change of grade and/or location of SAD position will be reviewed and validated by the MPAC or SMC IAW Table 1. Final approval authority for change of grade or location will be IAW Table 2.

2-6. Abolishing Positions

a. A position may be abolished due to loss of funding or through reorganization. When a position is abolished the corresponding PY is removed from the CMD Governor's Budget and requires external authority to reestablish.

b. Requests to establish, reclassify, re-title or abolish positions may require Department of Finance (DOF) approval in accordance with its directives and/or the provisions of the State Budget Act.

2-7. Grading Positions

a. The establishment of appropriate grades for all SAD positions is paramount to the efficiency and effectiveness of the SAD force. SAD pay grades are established when a new position is established or an existing position is reclassified.

b. To the extent practical, the establishment of a pay grade for an SAD position shall reflect the pay grade of a similar federal military service position, where such a similar federal position exists. The Director/Commander will provide in the request for a new or reclassified position a written explanation that a commensurate federal position exists. The written request must be validated by the relevant component commander and the Director, State Personnel.

c. Where a similar federal position does not exist, the Director/Commander will recommend an appropriate pay grade for the SAD position. This recommendation will be validated by the relevant component commander and the Director, State Personnel. This written recommendation must justify the proposed SAD pay grade and must address the following criteria as a minimum: depth and breadth of experience, military and/or civilian education, training, licensure, unique/specialized skills and/or attributes, supervisory duties, authority, duties and responsibilities, and autonomy.

d. Position upgrades must be based on a documented increase in responsibility or span of control. They will not be granted to correct an overgrade situation as described in 3-9a. Care must also be taken to ensure the duties do not overlap with other non-SAD positions.

Table 2: Approval Authority			
	Component Chief of Staff/Vice Chief of Staff	Assistant Adjutant General/Director, Joint Staff	The Adjutant General
Grade	E7/CW3/O4 and below	E8/CW4/O5 and below	All ranks
Note: The Adjutant General reserves the authority for all exceptions.			

Chapter 3

Appointments

3-1. Authority

a. An appointment is an order to State Active Duty under the provisions of CMVC. All appointments will be made based on a competitive selection process, with the exception of statutory positions as described in section 161, CMVC, key staff positions as identified in Appendix B, and specified temporary positions under section 3-7. Approval authorities shall be as defined in table 2.

b. State Active Duty service, whether career or temporary status, is subject to the availability of PY and funding.

3-2. Appointment Qualifications

a. A service member on SAD with the Military Department pursuant to section 142 shall be:

- 1) a current member of the California National Guard;
- 2) retired or otherwise honorably separated from federal active military or California National Guard service with current membership in the State Military Reserve; or,
- 3) a current member of the State Military Reserve with a minimum of two years of continuous service as of the closing date of the vacancy announcement (no prior federal service).

b. A service member ordered to SAD for a period longer than 90 consecutive days under section 230 shall meet the same qualifications as paragraph a above.

c. Applicants who otherwise have two years of service with the CSMR, but such service is not continuous service, may request a waiver of the requirement of continuous service, and any such request must be approved by the respective component commander of the vacant SAD position.

d. Requests for waiver of any other appointment requirement must be routed through the respective component commander of the vacant SAD position for approval by The Adjutant General.

e. Applicants must meet grade eligibility requirements for the position announced.

f. Applicants must be physically and mentally capable of performing the assigned duties.

g. Service members on SAD who retire federally from the California National Guard shall be automatically assessed into the State Military Reserve. They shall be required to complete the appropriate enlistment/appointment processes as defined by CSMR regulation, and shall be required thereafter to meet CSMR retention standards.

h. The following individuals are not eligible for appointment to SAD:

1) individuals convicted of a felony;

2) those released for misconduct or adverse administrative action from public service, civilian or military; and/or,

3) those otherwise not eligible for federal military service due to criminal offenses, misconduct, or other conditions as addressed in applicable service regulations.

i. If any of the above qualification factors change, the service member shall report these changes through the chain of command to the Director, State Personnel.

3-3. Background Check

a. Once selected, an applicant will undergo a background check (Live Scan) prior to appointment. Upon appointment, the appointee will undergo a National Agency Check. If, upon final determination, the appointee fails the NAC they will be released from SAD.

b. All current SAD members are required to undergo a background check (Live Scan) within one year of the effective date of this regulation.

c. Once initiated, the Live Scan system will report derogatory information on the affected service member for the remainder of their service with the Department.

d. Service members who are identified by any of the above as having felony convictions, specified misdemeanor convictions (i.e. sexually related and domestic violence offenses), and mandatory sex offender registration status will be evaluated for retention. The first General Officer in the chain of command is the lowest level for consideration of retention. Each issue will be handled on a case-by-case basis.

3-4. Selection Board

a. The Director, State Personnel will review applications and determine if a board is required. If the number of qualified applicants is four or less, a Selection Board is not required; the applications will be forwarded to the Selecting Supervisor for consideration and selection.

b. If there are more than four applicants, or the command determines a board is necessary regardless of number of applicants, the Director, State Personnel will appoint a selection board and forward applications to the board.

c. The selecting supervisor will not serve on the selection board.

d. The Selection Board will consist of a minimum of three voting members of equal or greater rank than the SAD position grade of the vacancy announcement and a non-voting recorder.

e. The senior member of the Selection Board is the President of the Selection Board. SAD, SCS, Military/Civilian Technicians, Active Guard Reserve (AGR), Active Duty Operational Support (ADOS), or affiliated civilian personnel (e.g. Youth Program teachers, CalOES reps) may be appointed to the board. The board President should be SAD, however, if not, at least one member of the board shall be SAD. The president of the selection board shall also be senior to all candidates based on active militia grade.

f. To the maximum extent practical, the board membership shall reflect the diverse population of the California Military Department in terms of race, ethnicity and gender.

g. At least one member of the board shall come from outside the activity/directorate/unit holding the board.

3-5. Appointments

a. Upon appointment to any SAD position, the active militia rank of a selected applicant may be equal to, one grade lower, or one grade higher than the SAD pay grade of the position.

b. Initial appointments for grades E7/W3/O4 or below may be made from any member of the active militia.

c. Appointments in the grades above E7/W3/O4 (senior grades) shall be selected from current SAD members with a minimum of one year of SAD service within the last 24 months,

d. Any other appointments to senior grades, and all appointments age 60 or over, require a written exception to this regulation by The Adjutant General.

e. Incumbent will be paid at their active militia grade or the grade of position to which appointed, whichever is lower, and IAW the service member's qualifying longevity. Upon promotion in the active militia, service member's pay will be adjusted to their active militia grade not to exceed the SAD position grade. This shall apply to all SAD service members appointed after the effective date of this regulation.

f. All full-time active duty, whether state or federal, shall be credited for purposes of determining longevity and service. This includes calculation for E-pay for commissioned officers in the grades of 01-03. This shall apply to all SAD service members after the effective date of this regulation.

3-6. Career Status

a. Career Status is a critical and important component of recruiting and retaining an experienced and professional SAD force.

b. Upon reaching 6 continuous years of SAD service under section 142, a service member whether in a temporary or permanent position shall be automatically granted career status until age 60, unless flagged as provided under chapter 10. The Director, State Personnel shall determine whether a service member is eligible for career status and publish the appropriate documentation.

c. A career status service member will be placed on indefinite orders until age 60 as of the end of the month in which they become eligible. They will be provided the level of due process allowed under this regulation prior to separation for cause. A career status service member may also be granted transitional permissive TDY.

d. A career status service member does not attain any additional rights, entitlements, privileges, and/or benefits to include, but not limited to, tenure, preference for assignments/reassignments, and protection from Reduction In Force (RIF).

e. A service member who has attained career status will retain that status during any break in SAD service due to military furlough or other approved leave status. They will also retain that status during an involuntary separation (e.g. RIF or reorganization), up to a maximum of two years. They will not retain career status if they are separated for cause or voluntarily resign.

3-7. Temporary Appointments

a. Non-competitive appointments. Non-competitive appointments will only be authorized to fill urgent, temporary needs. Such needs may include, but are not limited to, backfill of an existing position due to furlough or LWOP of the incumbent, or provision of a special skill or knowledge. The maximum duration of a non-competitive appointment is 12 months, and such appointments shall be nonrenewable, except in extraordinary circumstances.

b. Competitive Appointments. All other temporary appointments shall be competitive. Temporary appointments shall be used to fill short-term needs, or when a service member appointed to a permanent position has not yet been granted career status. The maximum duration of a temporary appointment shall be twelve months, renewable at the discretion of the approval authority.

c. Daily Appointments. Daily appointments may be either competitive or non-competitive, as defined above.

1) Daily appointments shall be for a maximum of twelve months, and the orders shall further specify a maximum number of days of duty to perform.

2) A service member on daily orders shall only be paid for those days when duty is performed.

3) Although daily appointments are not Retired Annuitants, a service member who is drawing a California state public retirement (e.g. CalPERS or CalSTRS) is subject to the same limitations as Retired Annuitants.

3-8. Indefinite Appointments

a. Indefinite appointments, if not sooner terminated, shall expire at the end of the month in which the Service Member turns 60 years of age.

b. Indefinite appointments will only be granted to those service members with career status as defined above.

3-9. Grade Compatibility

a. Service members whose militia grade is two grades or more above or below their SAD grade have 24 months to obtain an SAD position or adjust their militia grade to comply with paragraph 3-6a. This is the service member's responsibility and not the Department's responsibility.

b. SAD service members in positions other than officer positions who accept a commission in the active militia shall be terminated from SAD within 30 days. It is the responsibility of the service member to obtain an appropriately graded SAD position prior to accepting a commission.

c. SAD service members who are officers and resign their commission in the active militia shall be terminated from SAD within 30 days. It is the responsibility of the service member to obtain an appropriately graded SAD position prior to resigning their commission.

3-10. Statutory Appointments

The Adjutant General will inform the Director, State Personnel of his/her selection for a statutory position described in section 161, CMVC, and the Director will affect the personnel action necessary to appoint or reassign the selected individual into the position vacancy.

3-11. Key Staff

a. The Adjutant General may use the competitive selection process described in section 3-4 to fill key staff positions identified in Appendix B by informing the Director, State Personnel to announce the position vacancy. The Adjutant General or the Deputy Adjutant General will be the selecting supervisor.

b. The Adjutant General may also inform the Director, State Personnel of his/her selection for a key staff position described in Appendix B and the Director will affect the personnel action necessary to appoint or reassign the selected individual into the position vacancy.

c. The Adjutant General may relieve key staff (as described in Appendix B) from their position at his/her discretion. For any proposed removal from SAD service, refer to procedures in chapter 9.

Chapter 4 Personnel Actions

4-1. Appointment Process

a. Requests for appointment/reassignment will be submitted to the Director, State Personnel for review and processing based upon the selection process outlined in paragraph 3-4 or authorized by The Adjutant General in paragraph 3-11.

b. Supervisors shall not allow selected personnel to report for duty without written authorization from the Director, State Personnel.

c. The Director, State Personnel will insure appointment/reassignment requests are verified by the State Comptroller for funding authority and approved IAW table 2.

d. Upon confirmation of the selection by the selecting supervisor, the Director, State Personnel will provide the notification and start date to selecting supervisor who will notify selectee.

e. If the request for appointment/reassignment is not approved, the Director will return the action to the submitting supervisor outlining why the appointment request was not approved.

4-2. Command-Directed Assignments and Details

a. SAD service members may be detailed temporarily to meet mission essential requirements not to exceed 180 days. Command directed details are intended to meet immediate or short term needs and are not intended to be substitutes for standard personnel appointments. These personnel actions are initiated by supervisors and submitted to the Director, State Personnel. The request will identify a long term solution to the personnel shortage.

b. The Director, State Personnel will insure command-directed detail requests are verified by the State Comptroller for funding authority and approved IAW table 2.

c. Only one extension of the detail is renewable upon request.

d. SAD service members may be reassigned into a position of the same grade as their current

assignment. SAD service members may be reassigned to a position of one grade higher for a period not to exceed one year. The position will be announced within that year for competitive selection. The Deputy Adjutant General is the approval authority for all command-directed reassignments.

4-3. Incumbent Advancement

- a. SAD Personnel normally advance in pay grade through the competitive selection process.
- b. However, if an occupied position is upgraded and the incumbent is otherwise qualified, he/she may be upgraded to the new grade.

4-4. Reduction

- a. Incumbent reduction as an adverse action may be accomplished IAW Chapter 9.
- b. An incumbent may volunteer to be administratively reduced to a lower graded position.
- c. When an occupied position is downgraded, the incumbent will retain their current pay rate for a maximum of 12 months. Within that period, the Department shall make a good faith effort to reassign the service member to a position at their current pay rate. If the Department is unable to do so, the service member's pay rate shall be reduced to match the position.

4-5. Separation

- a. SAD service members may be separated voluntarily or involuntarily.
- b. Voluntary separation is initiated by the service member and submitted through the chain of command to the Director, State Personnel. Voluntary separation is subject to approval of the appointing authority IAW table 2.
- c. Involuntary Separation from SAD is initiated by the Department and may include: Statutory Separation, Medical Fitness for Duty, Cause (see Chapter 9) or Reduction in Force. Subject to the availability of funds, the Department may offer separation allowance IAW the DOD pay manual as of the date of separation.
- d. Statutory Separations IAW section 142, CMVC:
 - 1) A service member who remains on SAD for six consecutive years shall be eligible for career SAD status and may remain on SAD until the service member reaches 60 years of age or is separated for cause. At 60 years of age, a service member may remain on SAD under temporary orders which may be renewed annually.
 - 2) When a service member reaches 64 years of age, or when federal recognition of his or her grade or rank is withdrawn, whichever occurs later, the service member shall be retired from SAD.
 - 3) All service members are required to be in the active militia to serve on SAD. Loss of active militia status will result in separation from SAD. The service member is responsible for maintaining an appropriate active militia status. Service members are required to immediately report changes in their active militia status to the Director, State Personnel.
- e. Medical Fitness for Duty Separation
 - 1) Service members will be processed for medical reasons when it is clearly indicated that the individual cannot return to duty. Separation may also be appropriate if the period of illness/injury will be of such duration that it is impractical to return the service member to duty, or if the service member is no longer able to perform duties of their position for medical reasons.

2) Request for medical duty separation is initiated by the supervisor and forwarded through their chain of command to the Director, State Personnel. The Director, State Personnel will notify the service member and the component, and request the necessary medical documentation relevant to the service member's ability to perform his/her duties. Access to confidential records will be restricted to those with a need to know.

3) Failure to provide the proper medical documentation may subject the service member to involuntary separation for cause.

4) The director, State Personnel will request a preliminary review by a military medical practitioner to determine whether the record is complete and adequate to support an MEB. After consultation with the CMD State Surgeon, the director will either return the action to the submitting supervisor outlining why it was not recommended; or, convene a Medical Evaluation Board (MEB).

5) The MEB will consist of the State Surgeon, a military medical practitioner, and a field grade officer/warrant officer/senior NCO as appropriate, based on the SAD pay rate of the service member. The Director, State Personnel and a Judge Advocate will serve as non-voting advisors to the board.

6) The MEB proceedings are limited to review of records. Service members will not be allowed to make a personal appearance. Based on their review, with consideration of the requirements of the position, the MEB shall recommend either retention or separation.

7) The final approval authority will be in accordance with table 2.

4-6. Renewal of Orders

a. SAD service members on temporary appointments who are filling a continuing need for the Department may have their orders renewed at the discretion of the approving authority as shown in table 2, subject to the restrictions of this chapter.

b. Supervisors will submit requests for renewal through their chain to the Director, State Personnel 45 days in advance of the end of the service member's term of orders.

c. When orders will not be renewed, supervisors will submit the request for non-renewal through their chain to the Director, State Personnel, 60-90 days in advance of the end of the term of orders.

4-7. Selective Retention Board (SRB)

a. The SAD SRB will ensure, based on the needs of the Department, only the best qualified service members are retained beyond 60 years of age. The Adjutant General appoints the SRB members. SRB shall comprise of a minimum of three SAD members of equal or higher SAD grade than the service members to be considered and the President of the board shall be in a higher level position. The Board will convene annually to consider retention of service members over 60 years of age or who will turn 60 in the following calendar year.

b. Any SAD service member who maintains federal recognition will not go before an SRB unless it is anticipated that the SAD service member will lose federal recognition upon reaching age 60. If a service member does retain federal recognition, the service member may continue on temporary orders beyond age 60. Upon loss of federal recognition for a service member over age 60, the service member will go before the next scheduled SRB. In addition, any SAD service member who holds a State and/or Federal position as a General Officer will not go before an SRB.

c. Service members appointed under section 230 are exempt from the SRB requirement.

d. The Director, State Personnel will notify service members of The Adjutant General's final determination. In the event the service member is not selected for retention the service member will be separated upon expiration of orders unless sooner rescinded. Once approved by The Adjutant General, the results of the SRB are final and there is no appeal.

e. SRB may retain a service member up to a maximum of one year. All extensions are subject to availability of PYs and funding.

f. A service member who is not selected for retention by the SRB, and who subsequently receives an MRD/MSD/ETS extension beyond age 60, shall be retained until their new MRD/MSD/ETS. The affected service member shall immediately provide notification of such extension to the Director, State Personnel.

g. A service member who is not selected for retention by the SRB as approved by The Adjutant General shall not be subsequently appointed under section 142.

Chapter 5 Benefits

5-1. General

SAD Service members are entitled to pay, allowances and benefits, which may include health, dental, vision, life insurance, and retirement in accordance with applicable state law.

5-2 Duty Related Injury/Illness

a. Worker's compensation is insurance that the law requires the Military Department to carry to cover service members if they sustain a service connected injury or illness.

b. The State Compensation Insurance Fund (SCIF) is the insurance carrier providing workers' compensation coverage. Workers' compensation is separate from personal health-care insurance and covers work-related injuries and illnesses only. There is no deductible as SCIF pays all approved medical bills. Service members must notify the SCIF/Return to Duty Coordinator within the office of State Personnel and advise the treating physician of their service connected injury or illness.

Chapter 6 Accountability

6-1 Dual Compensation

a. Although all service members on SAD are also members of a component, they may never serve in multiple duty statuses at the same time. It is therefore incumbent upon each service member to carefully manage their time reporting, to avoid creating a situation where they may receive dual compensation in violation of state or federal law.

b. Service members will always be in an approved leave status when performing federal active duty (e.g. Annual Training, ADOS, ADT). This may be military leave, annual leave, military furlough or LWOP.

c. SAD service members may perform federal inactive duty during their regularly scheduled time off (aka regular pass). If performing federal inactive duty during their regularly scheduled work hours, they must be in either annual leave or LWOP status. SAD service members may not use military leave or a special pass to perform any type of federal inactive duty.

d. SAD service members may perform federal inactive duty on the same calendar day as they perform SAD duty without taking leave, as long as they complete the federal duty either before the start or after the end of their SAD shift. For example, performing an evening AFTP or attending a unit dark night.

e. Supervision of SAD service members who work non-traditional or shift schedules (e.g. JOC staff, firefighters, youth programs, etc) shall work to accommodate their members who do not have flexible drill schedules. To the maximum extent practical they shall schedule these service members regular passes to coincide with drill weekends.

f. SAD service members whose military component is the CSMR shall follow the same rules when performing CSMR military duties.

g. When activated in support of a state emergency, SAD service members shall continue to be compensated at their SAD pay rate. They are not eligible for ESAD or fire pay.

6-2 Report of Accountability

a. SAD service members are on duty 24/7. This means that members are not off duty when they go home after work or on weekends; they are merely on a regular pass (7-2c) which may be revoked by their supervisor at any time. They shall use the Report of Accountability (ROA) to report monthly on their periods of leave, special pass, furlough, sick leave, or other non-duty status. All federal military duty and SMR duty must be reported.

b. Each service member is responsible to complete and submit an accurate report monthly in accordance with current policy. By their signature on the report, the service member is certifying that all periods have been accurately reported.

c. The report shall identify all periods of federal and CSMR duty, regardless of type. It shall also include explanation of any periods that may be unclear, such as when multiple types of duty are performed on the same 24-hour calendar day.

d. The service member shall attach supporting documentation for all non-duty periods except ordinary leave or regular pass.

e. The supervisor is responsible for verifying the accuracy of the report. By the signature on the report, the supervisor is certifying that all periods have been accurately reported.

Chapter 7 Leaves and Passes

7-1. Policy for Leave

a. The Military Department leave policies are an important command requirement and care must be taken to prevent misuse of leave.

b. The leave and pass program is designed to allow Service members to use their authorized leave to the maximum extent possible. The frequent use of leave will make a positive contribution to morale, level of performance, and career motivation.

c. Operational missions and essential supporting functions of each command or directorate must be accomplished to the extent permitted by the manning provided.

d. Leave will be granted within the constraints of operational military requirements.

e. Full days of absence from duty will be charged as ordinary leave, sick leave, military leave, leave without pay, holiday or pass (regular or special), as appropriate.

f. State and/or federal law may authorize additional types of leave in limited circumstances. Service members requesting such leave shall coordinate directly with their supervisor and the Office of State Personnel.

7-2. Ordinary Leave

- a. Ordinary Leave is authorized to all personnel on SAD whose appointment exceeds 30 days. Ordinary Leave is earned at the rate of 2.5 days per month.
- b. Leave credit for any fractional part of a month is computed in accordance with applicable Department of Defense military regulations (table 2-1, AR 600-8-10, and AFI 36-3003).
- c. When individuals on SAD are not performing duty and are away from their place of duty for periods of time between duty hours or on weekends or holidays with the consent of their supervisor, they are considered as being on regular pass.
- d. The use of ordinary leave must be approved in advance by appropriate supervisors. Leave forms are for local use only and will be retained for audit purposes for a period of six (6) years. Periods of leave are reported monthly on the Report of Accountability.
- e. Weekends and holidays falling within a period of ordinary leave must be charged as leave.
- f. The day of departure, regardless of the hour, is the first day of leave. If the individual performs duty for half or more of their normal duty hours on the day of departure, the following day will be counted as the first day of leave.
- g. The day of return, regardless of the hour, is the last day of leave unless the individual performed duty for half or more of the normal duty hours, or it is a non-duty day. If duty is performed for half or more of the normal duty hours on the day of return, or if the day of return is a non-duty day, the preceding day will be counted as the last day of leave.

7-3. Convalescent/Sick Leave

- a. Convalescent/sick leave is a nonchargeable absence from duty granted to expedite a service member's return to full duty after illness, injury or childbirth
- b. Sick leave may not be used for family illness or injury. Absences required because of family illness or injury will be in an ordinary leave or a leave without pay status.
- c. Sick leave will be coded on a full day basis. The first full day of absence will be considered the first day of sick leave. The day of return, regardless of the hour, will be considered a day of duty.
- d. For absences over three days, the service member shall provide a statement from a medical doctor, licensed in the State of California, verifying the limitation(s) that affect the service member's ability to perform duty or render the service member unable to perform duty. The doctor visit shall occur NLT the fourth day.
- e. When the total absence due to illness or injury exceeds 15 days in a 12 month period the supervisor may require the service member to provide a statement from a medical doctor licensed in the State of California for any subsequent sick day.
- f. When the period of absence due to illness or injury exceeds 30 consecutive days or exceeds 60 days within a 12-month period, a written request for extended sick leave shall be forwarded to the Director, State Personnel. The Director, State Personnel will approve the request or consider convening a medical evaluation board, as appropriate.

7-4. Maternity Leave

- a. Maternity leave is a non-chargeable administrative absence.
- b. All pregnant service members are eligible for maternity leave.
- c. Service members will continue to perform duties during the prenatal period except

when their physical condition incident to pregnancy precludes performing duty. Limited duty tasks may also be designated during this period. Supervisors will obtain confirmation from the member's attending physician regarding inability to perform duty.

d. Maternity leave will be authorized for 42 consecutive, calendar days during the postpartum period.

e. Any additional absence requirements for either the care of the member or child; will be in a sick leave, ordinary leave or leave without pay status.

f. A birth certificate and/or medical statement of birth will establish the initiation of maternity leave.

7-5. Paternity Leave

a. Paternity leave is a non-chargeable administrative absence.

b. Paternity leave is only authorized for a married service member. Paternity leave cannot be applied to service members fathering a child out of wedlock.

c. Paternity leave will not exceed 10 days and must be taken consecutively within 45 days after the birth of the child.

d. Deployed Service members have 60 days after returning from deployment to utilize the 10 days of paternity leave. If not used within the prescribed time frame leave is lost.

e. A birth certificate and/or medical statement of birth will establish the initiation of paternity leave.

7-6. Adoption Leave

a. Adoption leave is a non-chargeable administrative absence.

b. Adoption leave will not exceed 21 days and must be taken within 12 months following the adoption.

c. In the event that two SAD service members who are married to each other adopt a child, only one of the members shall be granted adoption leave.

7-7. Military Leave

Service members shall refer to the California Department of Human Resources website for military leave policy.

7-8. Regular and Special Passes

a. Passes will be authorized and taken IAW AR 600-8-10/AFI 36-3006.

b. As an exception to federal regulation, for SAD an approving official is defined as director, director equivalent or higher.

c. Special passes are not authorized for performing any type of federal military duty.

7-9. Holiday Pass Procedures

a. SAD Personnel may be authorized regular pass for state holidays.

b. The day of observance will be per the DOD pay manual, Army or Air Force regulations and Active Guard regulations. (Example if the fourth of July falls on a Saturday, the federal day of observance is the preceding Friday).

c. SAD Service members are not authorized holiday leave credits.

d. Personnel who are required to work on an observed holiday may be granted a regular pass at a later date at the discretion of their supervisor.

7-10. Leave Without Pay (LWOP)

- a. When on Leave Without Pay (LWOP) or when Absent Without Leave (AWOL) service members will be in a non-pay status. Ordinary leave will not accrue when in either status.
- b. Leave without pay may be granted to service members under exceptional circumstances. When granted, such leave will be without pay and allowances. For military leave without pay, see section 7-7.
- c. The use of leave without pay must be approved in advance by the appropriate supervisor with notification to the Director, State Personnel prior to the commencement of LWOP.

7-11. Absent Without Leave (AWOL)

- a. The elements of AWOL are set forth in the Manual for Courts Martial.
- b. AWOL will be coded on a full day basis.
- c. Service member or if absent, their supervisor will report periods of AWOL on the monthly ROA.
- d. AWOL is a punishable offense and may subject a service member to disciplinary measures.

7-12. Leave Accounting

- a. Leave taken and leave accrued will be accounted for on a State fiscal year (1 July-30 June) basis.
- b. All ordinary leave accrued in excess of sixty (60) days will be forfeited at the end of each fiscal year except as otherwise authorized by DOD.
- c. Ordinary leave, which commences during one fiscal year and is completed in the following fiscal year, will be charged in the fiscal year in which each portion falls.
- d. Supervisors are responsible for coordinating the use of leave consistent with their mission and consistent with member's desires. They must also ensure scheduling of leave in such a manner so as to preclude the loss of leave by their subordinates.
- e. SAD members who anticipate having in excess of 60 days of annual leave accrued by the end of the fiscal year, due to exceptional circumstances, may request a waiver 45 days prior to the end of the fiscal year through their chain of command to the Director, State Personnel for consideration and recommendation to the The Adjutant General.

7-13. Transition Leave

- a. Use of ordinary leave as transition leave prior to a service member's separation date may be authorized if requested by the member through their supervisor and chain of command and authorized by the Director, State Personnel. Transition leave must commence so that it is completed on or before the date of mandatory retirement or end of orders.
- b. Lump Sum Leave payments may be made to service members separating from SAD for remaining accrued ordinary leave at the time of their separation. Lump Sum Leave payments are limited to a lifetime maximum of sixty (60) days and consists of base pay only for each day of accrued leave.

7-14 Permissive TDY

- a. Permissive TDY is a duty status which is an authorization and not an entitlement for SAD service members. The purpose of transition PTDY is to facilitate transition into civilian life for house and job hunting for service members being involuntarily separated or retiring from active

duty. When granted it will be IAW AR 600-8-10/AFI 36-3003 (as modified below) at no expense to the government to perform a semi-official activity that benefits the CMD and service member.

b. Permissive TDY may be used in conjunction with annual leave or transition leave IAW AR 600-8-10/AFI 36-3003. Transition PTDY is only authorized for career status SAD service members. Transition PTDY will not exceed a total of ten days.

c. At no time will PTDY be used concurrently with federal duty or compensation, to include federal Invitational Travel Orders (ITO).

d. Authority to approve PTDY is IAW AR 600-8-10 paragraph 5-31 through 5-35/AFI 36-3003 paragraph 12.4 and will not be further delegated. This approval authority resides with the full-time chain of command.

Chapter 8

Performance

8-1. General

Optimal performance by all SAD service members is critical to the fulfillment of the Military Department's mission. Therefore, service members will continuously assess their own performance and identify areas needing improvement. In addition, supervisors will provide performance counseling to their service members at least quarterly, to include a review of their duties as outlined in their PD.

8-2. Counseling

a. Its purpose is to assist in the rapid, equal, and fair orientation and professional development of SAD personnel. The concept is to drive development and integrate it with performance. The Supervisor directs the process with active participation from the rated service member.

b. The initial counseling is used to build a developmental plan based on tasks targeting the major performance objectives listed on the PD, ensure service members are informed of applicable regulatory guidelines, and outline acceptable performance standards. Counseling will be conducted within 30 days of appointment or within 30 days after the beginning of the rating period.

c. During the rated period, the Supervisor should actively observe the service member's performance to determine his or her strengths and weaknesses. The Supervisor will then use this assessment to further focus the development of the service member during follow-up counseling.

d. Service members should understand their responsibilities in maintaining personal performance levels. They should take initiative when deficiencies are identified, making every effort to improve work to an acceptable level by requesting additional assistance, guidance, or training.

8-3. Evaluations

a. SAD performance evaluations are independent assessments of how well a service member met the duty requirements and adhered to the professional standards identified in the initial and subsequent counseling within the rated period. Evaluation reports give the service member formal recognition for his or her duty performance, assesses his or her overall potential, and/or positions of greater responsibility. Evaluation reports must be a thoughtful and fair appraisal of the service member's ability, based on observed performance and his or her potential. Each

report must be accurate and complete to ensure that sound personnel management decisions can be made and that a service member's potential can be fully developed. Evaluations that are incomplete or fail to provide a realistic and objective evaluation make personnel management decisions increasingly difficult.

b. Performance evaluations will be prepared on each service member annually as of 30 June or when a rater changes. Commanders/Directors will establish rating chains identifying full-time supervisors (regardless of personnel status) who can best observe and evaluate a service member's performance and potential. This allows for proper counseling to develop the service member and accomplish the mission.

c. Evaluations will be prepared by the immediate full-time supervisor, signed by the supervisor and the service member, and forwarded to the reviewer. The reviewer will review the evaluation and may either:

1) Concur with the evaluation, sign the form, and forward the original to The Director, State Personnel.

2) Non-concur with the evaluation. In this case, the difference of opinion should be resolved between the rater and the reviewer prior to the reviewer signing the form. In the event the difference cannot be resolved, the reviewer should indicate his non-concurrence in the narrative section of the form, sign and forward the form to The Director, State Personnel.

d. When a service member does not concur with the evaluation, they may provide a letter of non-concurrence which will be attached to the evaluation.

e. The minimum rating period is 90 days. For any shorter period, the service member will be credited for non-rated time

f. Instructions for preparation of the evaluation form are on the reverse side of the form. Evaluating supervisors should carefully consider the service member's performance and potential in each factor prior to making a rating judgment.

8-4. Performance Improvement

Supervisors will ensure that performance issues are addressed as they surface, then initiate training, guidance, and assistance in a timely manner to encourage productivity. Counseling should identify if the member's performance is marginal and what the requirements are to bring them up to standard. However, if a service member's performance continues to be below marginal despite efforts by supervisors to improve performance, a written PIP will be drafted to include increased supervisory assistance and additional training. The objective of the SAD Performance Improvement Plan (PIP) is to provide an efficient and documented method for correction of a service member's performance for continued service. If improvement occurs, a memorandum of successful performance will be issued. If improvement does not occur, an unacceptable SAD Evaluation of Performance should be rendered at the end of the PIP period.

8-5. Performance Improvement Plan (PIP)

a. A PIP is a tool available to supervisors for the purpose of improving a service member's performance. It addresses performance discrepancies identified in the Evaluation of Performance process. Cooperation and continuing communication between service members and supervisors is essential for success of the PIP.

b. Supervisors implementing the PIP must identify each element of performance discrepancy that needs improvement. Each discrepancy should be supported by appropriate documentation using specific examples to identify areas of concern. Supervisors must define the task, skills,

and/or behaviors where improvement is needed then establish priorities in areas requiring improvement. Supervisors must also identify standards upon which performance will be measured for each area requiring improvement and insure they are reasonable and attainable.

c. Once areas of improvement have been identified, supervisors must develop an action plan specifying how the standards will be met. This should include specific training and any other special support that will assist the service member in meeting the standards. Supervisors will establish short and long-range goals and timetables for accomplishing performance changes.

d. The PIP requires prior coordination with Director, State Personnel. Once approved, the PIP will be put in writing and include signatures of both the service member and supervisor.

e. Supervisors should periodically review their service member's progress. At the end of the PIP time period, a final evaluation is conducted to determine if it was successful. If the PIP was unsuccessful, supervisors may continue, amend, or extend parts of the plan.

8-6. Actions Based on Unacceptable Performance

Service members whose job performance does not meet standards after establishment and unsuccessful completion of a PIP may be subject to administrative corrective action up to removal from SAD. These administrative corrective actions will be accomplished in accordance with the process outlined in chapter 9.

Chapter 9

Adverse Administrative Actions

9-1. General

a. As a general policy, adverse administrative actions should be considered before using military justice procedures. Generally, all administrative actions will follow the procedures set forth in the governing federal component regulation. For instance, a non-punitive General Officer Memorandum of Reprimand will follow AR 600-37 or AFI 36-2907.

b. State military service does not have an equivalent to the federal 20 year active federal service retirement provision. Therefore, there is no State equivalent to the protections of the 18 to 20 year active federal service sanctuary provision and no such provision will apply to State administrative or military justice actions.

9-2. Administrative Disciplinary Actions

a. Commanders/Directors on SAD exercise broad powers in furtherance of their leadership responsibilities. Discretion, fairness, and sound judgment are essential ingredients of ensuring good order and discipline. Commanders/Directors have two distinct tools to address SAD service member misconduct – administrative disciplinary actions and punishments under the UCMJ (see chapter 11). Commanders/Directors should consider administrative disciplinary actions to correct a service member's conduct and to further the efficiency of the SAD force.

b. Administrative disciplinary actions are conduct-related actions that include both informal and formal discipline. Informal discipline includes all measures less than formal discipline. Formal administrative discipline includes separation, suspension without pay, and reduction in grade. Letters of reprimand may be either formal or informal, depending on how they are filed. Performance based actions are not covered by this section (see chapter 8).

c. The following are factors to consider in determining appropriate level of administrative action.

1) The seriousness of the events or conditions that form the basis for disciplinary action. Also consider the effect of the service member's continued retention on military discipline, good order, and morale.

2) The likelihood that the events or conditions will continue to recur.

3) Whether the actions of the member resulted or are likely to result in an adverse impact on accomplishment of unit missions.

4) The service member's ability to perform full-time duties in a reasonable manner.

5) The service member's potential for further SAD service.

6) The service member's military record. This may include past contributions to the California Military Department, assignments, awards and decorations, evaluations, ratings, letters of commendation, letters of reprimand or admonition, counseling records, records of non-judicial punishment, records of involvement with civilian authorities, and other matters deemed relevant.

9-3 Informal Discipline

a. Supervisors are responsible for initiating all informal administrative actions that include oral and/or written admonitions and warnings, counseling, corrective training, or other administrative actions consistent with military discipline. Counseling and admonition is communication from a supervisor requiring a service member to stop or not repeat misconduct. These are appropriate where the offense is minor and cessation of the offense is a satisfactory resolution of the matter.

b. Informal disciplinary actions are usually the first step in the disciplinary process. An oral admonition is the least severe form of discipline and may be administered by supervisors during scheduled counseling or as on the spot corrective action. When oral admonitions are used, the supervisor should clearly advise the service member of the infraction or unauthorized conduct and state what corrective active action must be taken. Supervisors should maintain a written record of all admonitions and shall do so in cases where past admonitions have not been successful.

c. Admonitions may also be administered in writing but remain an informal action. Written admonitions are not filed in service members' official personnel files. Written admonitions must indicate that they are not letters of reprimand. Informal letters of reprimand are more severe than an admonition. They do not require an acknowledgement statement and are only filed in local files. They are not filed in official personnel files. Both written admonitions and informal letters of reprimand shall be retained by the supervisor for a period of two years.

d. When informal disciplinary action is ineffective or where the nature of the offense warrants a disciplinary action more formal than an admonition, the formal disciplinary procedures indicated below will be used.

9-4 Formal Discipline

a. Supervisors are responsible for initiating all formal disciplinary actions, which include formal letters of reprimand, suspensions without pay, reductions in pay grade and separations.

b. Prior to initiating formal disciplinary action, directors and commanders must have a factual basis to support the action. Where they do not have first-hand knowledge of the alleged misconduct, they should initiate an inquiry or investigation into allegations of misconduct against an SAD service member and/or any defense raised by the service member. If the Director/Commander has a reasonable basis to suspect criminal misconduct, then they must stop the investigation and contact the Director, State Personnel and Staff Judge Advocate (SJA).

c. Formal disciplinary actions must be based on “cause.” Cause, as used in this section, is the good and sufficient reason that the disciplinary action is being proposed. Formal disciplinary action is appropriate when the preponderance of the evidence will substantiate the cause.

d. All separate causes should be combined in the same action, for example AWOL and misuse of a government vehicle, but different levels of the same offense should not be included, such as AWOL and unexcused tardiness. If a service member is arrested, indicted or convicted of a criminal offense, the arrest, indictment or conviction should not be used as cause. When a service member is arrested, indicted or convicted of a criminal offense, the conduct that led to the arrest, indictment or conviction can be used as cause for the disciplinary action. A conviction may be used as evidence to substantiate the underlying misconduct.

e. A letter of reprimand may be used where a counseling or admonishment is ineffective or where the nature of the offense warrants a more serious and formal action. A formal letter of reprimand is a disciplinary action which may have another adverse action connected to it.

1) The letter of reprimand must be issued by the Director/Commander or higher.

2) A letter of reprimand must, as a minimum, include:

(a) A description of the violation in sufficient detail to enable the service member to understand why the reprimand is being given. If the violation relates to a continuing problem, the supervisor should include a summary of past violations and the attempts made by management to correct those violations.

(b) A notice to the service member of the timeframe the reprimand could remain in effect in the Official Personnel Folder (OPF). Typically, the minimum period is one year and the maximum period is three years.

(c) A warning that further offenses could result in more severe disciplinary measures being initiated, to include separation.

(d) An acknowledgement section for the service member to date and sign upon receipt.

(e) A statement indicating the service member has an opportunity to submit a reply within fifteen (15) days that will be considered before a filing determination is made.

3) A letter of reprimand must be cleared for procedural accuracy by State Personnel prior to issuance.

4) The filing determination shall be made by the first officer assigned to a general officer position in the chain of command. They may direct filing either locally or in the OPF between one to three years, or permanently.

5) Once a letter of reprimand is removed from the OPF, it is as if it never happened and may not be referenced as past discipline. The letter must also be removed from the supervisor’s file and related annotations deleted from the file.

f. Suspension without pay is applicable to SAD service members. Suspended service members are prohibited from working for a specified period of time and their pay and allowances are adjusted accordingly. The factors listed above in paragraph 9-2c will be considered in determining the length of the suspension. The maximum suspension is IAW Table 3.

g. Reduction in SAD pay grade is applicable to SAD service members. The factors listed above in paragraph 9-2c will be considered in determining whether reduction is appropriate. The maximum reduction is IAW Table 3. A reduction may be indefinite or temporary with a maximum specified duration of one year, at the discretion of the approving authority.

h. Separation is applicable to SAD service members. Separation may be initiated when other informal or formal disciplinary actions do not accomplish the desired result. The factors listed above in paragraph 9-2c will be considered in determining whether separation is appropriate.

i. The unexecuted portion of temporary SAD orders may be rescinded for administrative or disciplinary reasons. A request for such action will be submitted through the chain of command to the Director, State Personnel. In coordination with the SJA, the Director, State Personnel will make recommendation to the appropriate authority who will make the final decision.

9-5 Procedures for Suspension, Reduction and Separation

a. The supervisor shall identify the misconduct, gather any necessary evidence, and determine cause per section 9-4, paragraphs 1-3.

b. If a preponderance of the evidence establishes that cause exists, then the Director/Commander shall:

1) Consult with State Personnel and prepare the written notification of proposed discipline. The written proposed disciplinary action (PDA) shall describe the specific cause, and provide sufficient facts to provide notice to the service member of the who, what, when, where of the alleged misconduct.

2) Present the PDA and all relevant evidence to the service member.

c. For service members with less than six months of continuous service, the PDA will then be immediately forwarded through the Director, State Personnel to the approving authority.

d. For non-career status service members with six months continuous service or more, the service member will be given 15 days from receipt of the PDA to reply to the Director /Commander who referred the PDA. The Director/Commander will forward the PDA and reply through the Director, State Personnel to the appropriate approving authority.

e. For career status service members, the service member will be given 15 days from receipt to reply to the Director/Commander who referred the PDA. The service member will also indicate whether they request a disciplinary action board (DAB). The Director/Commander will forward the PDA and reply through the Director, State Personnel to the appropriate approving authority.

f. If the DAB is requested, the approving authority shall convene a DAB.

g. If a DAB is not requested, the approving authority will make the final decision on disciplinary action not to exceed the PDA.

h. In those cases where the Director/Commander would otherwise hold approval authority per Table 3, the approval authority shall be the next higher member of the chain of command.

Table 3: Approval Authorities for Administrative Discipline			
	Component Chief of Staff	Assistant Adjutant General/Director, Joint Staff	The Adjutant General
Suspend	7 days	14 days	30 days
Reduce	E6/CW3/O3 and below Max 1 grade	E8/CW4/O5 and below Max 1 grade	All ranks Max 2 grades
Separate	N/A	E8/CW4/O5 and below	All ranks

9-6 Disciplinary Action Board

a. The purpose of a DAB is to conduct a fair and impartial review of all relevant information in order to provide finding(s) and recommendation(s) to the approving authority. The finding(s)

and recommendation(s) must include whether the cause is substantiated by a preponderance of the evidence and whether the proposed punishment is appropriate.

b. The approving authority shall appoint a board comprised of three voting members senior to the service member by active militia rank, a non-voting legal advisor, a non-voting recorder (to provide summary), and a non-voting Office of State Personnel representative.

c. The rules of evidence are governed by AR 15-6.

d. The service member has no right to representation at the DAB but may consult with legal counsel at their own expense.

e. For suspension or reduction DABs, neither the service member nor the Department has a right to appear or present live witness testimony.

f. For separation DABs, both the service member and the Department may appear without legal representation and provide witness testimony.

g. Upon completion of the board proceedings, the board will provide a majority or unanimous written determination. This will consist of findings and recommendations to the appointing authority to be no greater than the discipline recommended in the PDA, but may be lesser.

h. The approving authority will review the board's determination and make a determination on the disciplinary action which may not be greater than the disciplinary action recommended by the DAB, but may be lesser.

i. Service member may appeal the approving authority's decision to the next higher approval authority per table 3. The appeal authority may sustain or reduce the discipline but may not increase it. There is no appeal when The Adjutant General is the approving authority.

Chapter 10

Suspension of Favorable Personnel Action (Flag)

10-1 General

Only the SAD Director/Commander will suspend (flag) personnel actions that are considered favorable to SAD service members when specific instances as described in paragraph 3 below occur. The instances described in paragraph 3 change the service member's status from favorable to unfavorable.

10-2 Standard for Flagging Action

a. The Director/Commander is responsible for initiating all flagging actions.

b. A flag will be initiated immediately when a service member's status changes from favorable to unfavorable. The flag's effective date is the date of the incident or action warranting an unfavorable status. A separate flag will be initiated for each investigation, incident or action. Service members can have multiple flags at one time.

c. A component flag is not necessarily grounds for an SAD flag. This regulation governs the imposition of SAD flags.

d. When a Director/Commander has knowledge of an action that warrants a flag, they will notify the Director, State Personnel. The Director/Commander shall also counsel the service member on the basis for the flag and the criteria for its removal.

10-3. Specific Instances Warranting a Flag

The following instances warrant the initiation of a flag:

a. Civilian or military investigations of a serious nature

- b. Civilian or military criminal charges, to include initiation of non-judicial punishment
- c. Failure of live-scan or other background check
- d. Prohibition to possess a weapon under state or federal law
- e. The initiation of administrative disciplinary action by either SAD or component chain-of-command
- f. AWOL

10-4. Effects of a Flag

The following actions are prohibited until the flag is resolved:

- a. Appointment, Reappointment, and Order Renewal
- b. Reassignment
- c. Promotion
- d. Awards and decorations
- e. Attendance at schooling
- f. Voluntary Retirement
- g. Advanced, excess leave or permissive TDY
- h. Assumption of command
- i. Obtaining career status

10-5. Duration of a Flag

- a. Every 90 days from the initiation of the flag, the Director/Commander shall counsel the service member on the basis for continuing the flag and the criteria for its removal.
- b. The flag remains in effect until it is removed in accordance with section 10-6.
- c. An unresolved flag survives the expiration or termination of the service member's SAD orders. The service member may not be subsequently appointed or reappointed until the flag is removed.

10-6. Removal of a Flag

- a. Only the SAD Director/Commander has the authority to remove a flag. The Director/Commander shall notify the Director, State Personnel when removal of the flag is warranted.
- b. A flag will be removed immediately when a service member's status changes from unfavorable to favorable.
- c. The effective date of removal is the day on which the status of the SAD service member changes as follows.
 - 1) Civilian or military investigations of a serious nature. Remove the flag when service member is released without charges.
 - 2) Civilian or military charges, to include non judicial punishment. Remove the flag upon final disposition of charges by dismissal or upon completion of punishment.
 - 3) Failure of live-scan or other background check. Remove the flag if the issue(s) identified in the live-scan or background check is cleared.
 - 4) Prohibition to possess a weapon under state or federal law. Remove the flag if service member is authorized under federal and state law to possess a weapon.
 - 5) The initiation of administrative disciplinary action by either SAD or component chain-of-command. Remove the flag upon completion of administrative discipline.
 - 6) AWOL. Remove the flag upon completion of punishment or other resolution.

- d. The component commander in the SAD chain of command may temporarily lift a flag up to 30 days for a compelling reason when such action is in the best interest of the Department.
- e. The Director, State Personnel will maintain the flag and all supporting documents on closed flags for one year.

Chapter 11

Military Justice

11-1. General

The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the California Military Department, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the security of the State of California.

11-2. Jurisdiction

- a. All service members on SAD are in a duty status seven days a week, 24 hours a day regardless of duty or leave status. As such, they are subject to the CMVC, which incorporates the Federal Uniform Code of Military Justice (UCMJ), except as otherwise provided in the CMVC or in regulations adopted by The Adjutant General. Service members on SAD are subject to concurrent jurisdiction between their component chain of command and their SAD chain of command.
- b. Only commanders may impose UCMJ punishments. When a Director, who is not a Service member's commander, believes that a Service member's misconduct warrants punitive discipline under this section, the Director shall coordinate with state SJA and refer the matter to the appropriate commander for disposition.

11-3. Non-Judicial Punishment

- a. A commander should use non-punitive measures to the fullest extent practical to further the efficiency of the command before resorting to non-judicial punishment (see chapter 9 for the proper use of administrative disciplinary actions).
- b. Use of non-judicial punishment is proper in all cases involving minor offenses in which non-punitive measures are considered inadequate or inappropriate. If it is clear that non-judicial punishment will not be sufficient to meet the ends of justice, more stringent measures must be taken. Prompt action is essential for non-judicial punishment to have the proper corrective effect. Non-judicial punishment may be imposed to:
 - 1) Correct, educate, and reform offenders whom the imposing commander determines cannot benefit from less stringent measures.
 - 2) Preserve a service member's record of service from unnecessary stigma by record of court-martial conviction.
 - 3) Further military efficiency by disposing of minor offenses in a manner requiring less time and personnel than trial by court-martial.
- c. Non-judicial punishment and courts-martial will be conducted IAW section 450, CMVC *et seq.* and applicable federal regulations.

Chapter 12

Code of Ethics

12-1. Ethical Standards

a. Service members are subject to state laws and regulations pertaining to ethical standards and/or the United States Joint Ethics Regulation (JER) depending on the laws and regulations governing their component. The following are considered to be inconsistent, incompatible, or in conflict with acceptable conduct:

- 1) Providing confidential information to persons to whom issuance of such information has not been authorized, or using confidential information for personal gain or advantage or for the advantage of others.
 - 2) Soliciting or accepting, directly or indirectly, any money, loan, employment, business, benefit or other thing of value (in addition to salary paid by the state) from anyone from whom it might be inferred as a gift to influence the service member concerned.
 - 3) A service member shall not engage in any employment which prevents a prompt response to any reporting for duty notification.
 - 4) Providing or using the names of persons from office records for mailing lists that have not been authorized.
 - 5) Providing or using unit station lists for use in circulation or advertising of articles or services.
 - 6) Using the prestige or influence of one's office for personal gain or advantage or for the advantage of others.
 - 7) Using state and/or federal time, facilities, records, equipment or supplies for personal use or gain.
 - 8) Receiving or accepting money, gifts or favors for services rendered during duty hours.
 - 9) Performance of an unofficial act that may later be subject to the individual's control, inspection, review, audit or enforcement in an official capacity.
- b. Any personal knowledge of actions by service members which seem questionable, or which may appear as falling within one of the above categories, should be brought to the attention of the service member's supervisor immediately.

Chapter 13

Fraternization

13-1. General

SAD Service members are subject to the same regulations/rules and policies as Active Duty personnel under Army Regulation 600-20 and U.S. Air Force Instruction 36-2909.

Chapter 14

Complaints and Whistleblower Protection

14-1. General

- a. CMD policy is to resolve complaints through the SAD chain of command at the lowest possible level.
- b. Supervisors shall make every effort to find an acceptable solution by informal means.
- c. Alternatively, service members may also address complaints through the Military

Department Inspector General or the Military Department Equal Opportunity (EO) Officer.

14-2. Chain of Command Complaint Process

- a. The service member should attempt to resolve complaints informally with their direct supervisor or with the supervisor whom the service member believes committed the wrong. If this is unsuccessful, the service member can go to the next higher level supervisor.
- b. If the informal process does not satisfactorily resolve the complaint, the service member may choose to file a formal complaint. The complaint will be in written format explaining the specific issue and shall be addressed to the appropriate supervisor with a copy furnished to the Director, State Personnel.
- c. The supervisor shall investigate and determine the merits of the complaint and provide a written response within 15 working days. If the proposed resolution is not within the purview of the supervisor, they shall notify the service member of that fact and forward their investigation and recommendations to the appropriate authority.

14-3. Military Department Inspector General (MDIG)

SAD Personnel may submit an Inspector General Action Request (IGAR) to the Office of the MDIG. The MDIG will review and take appropriate action on a submitted IGAR in accordance with section 55, CMVC.

14-4. Equal Opportunity (EO) Complaint

- a. There shall be equality of treatment and opportunity for all service members. Service members shall not be discriminated against in enlistments, promotions, or commissions on any basis listed in subdivision a, section 12940, California Government Code.
- b. Service members may file complaints with the Military Department Equal Opportunity Officer IAW with CMD Directive 600-22.

14-5. Whistle Blower Protection

Applicable federal and state laws to include section 56, CMVC, provide potential protection for service members. Whistle blower status will be determined by appropriate authority. Supervisors must be mindful of applicable laws and regulations regarding whistle blower status and must ensure appropriate protections are afforded. Service members, commanders, and supervisors shall consult with MDIG and SJA for further guidance.

Chapter 15

Status During State Emergencies

15-1. General

- a. Service members on duty pursuant to Section 142 or 230, CMVC, who are ordered to perform emergency duties and where such duties are outside the normal duties and responsibilities of their SAD assignment, shall have their SAD position index reimbursed for the cost of their time performing the emergency duty.
- b. Service members will continue to receive their SAD pay, and are not eligible for fire pay or any other special pay.

APPENDIX A Internal Control Evaluation

A-1. Function

The function covered by this evaluation is the management of the SAD Personnel System, both by the Office of State Personnel and Supervisors of SAD Personnel, to include their supporting personnel specialists.

A-2. Purpose

The purpose of this evaluation is to assist the Office of State Personnel, supervisors of SAD personnel, and their supporting personnel specialists in determining whether the SAD program is being managed in accordance with applicable law, regulation and policy.

A-3. Instructions

Answers must be based on actual testing of key internal controls (for example, document analysis, direct observation, interviewing, sampling, or simulation). Answers that indicate deficiencies must be explained and the corrective action identified in supporting documentation. These internal controls must be evaluated by the Director of State Personnel every 2 years and submitted through and approved by the J1 for inclusion in the Financial Integrity and State Manager's Accountability Act (FISMA) report.

A-4. Test questions

- (1) Are procedures in place to ensure both an appropriate personnel year (PY) and funding exist prior to the establishment of a position?
- (2) Are positions properly classified and validated in accordance with current regulatory and policy requirements?
- (3) Are appointment qualifications of applicants screened and measured against the minimum eligibility requirements for both SAD service and the announced position?
- (4) Are procedures in place to ensure current SAD service members maintain eligibility in order to continue to serve in an SAD status compatible to their current grade, fitness, and background?
- (5) Is the Report of Duty (ROD) correctly annotated to accurately reflect the duty performed and leave (military and annual) taken by the service member?
 - (i) Are procedures in place to validate the accuracy of the ROD?
 - (ii) Are procedures in place to allow for an efficient and accurate audit of all pay and personnel records related to compensation, leave and benefits of SAD personnel?
- (6) Are procedures in place to efficiently and accurately track the accumulation and use of leave?
- (7) In accordance with existing law and regulation, is there a process in place which ensures the consistency and accuracy of all SAD service members' personnel records, to include both adverse and non-adverse information?
 - (i) Does this process allow the SAD service member and their supervisory chain to review such information in a timely and efficient manner before it is placed in their records?
 - (ii) Does this process ensure adverse information is removed from personnel records as provided for by the initial adverse action/UCMJ punishment and/or existing law and regulation?
 - (iii) Does this process allow the service member to periodically review their personnel records and challenge any inaccuracies?
- (8) Are procedures in place to ensure favorable actions are not granted when prohibited by regulation and law?

- (9) Are procedures in place to ensure any Selective Retention Board is conducted in an impartial manner and in accordance with governing law and regulation?
- (10) Is there a comprehensive training plan which provides periodic training on the SAD Personnel System for Supervisors of SAD Personnel?
- (11) Are there procedures in place to inform SAD service members of their rights, benefits, duties and obligations as service members under applicable laws and regulations?
- (12) Are procedures in place to ensure timely and fair evaluations are completed for all SAD personnel that accurately reflect the performance and conduct?

A-5. Comments

To help improve this review tool, submit comments to Director, State Personnel, 9800 Goethe Road, Sacramento, CA 95826.

APPENDIX B – Key Staff Positions

- a. Deputy Adjutant General
- b. Executive Officer
- c. General Counsel, OSJA
- d. Director, Government Affairs
- e. Director, Public Affairs
- f. State Chaplain
- g. Secretary, General Staff
- h. Aide-de-Camp
- i. Administrative Officer
- j. Senior Enlisted Advisor
- k. Inspector General
- l. Director, Joint Staff
- m. Chief of Staff, Joint Staff
- n. Vice Chief of Staff
- o. Assistant Adjutant General, Army Division
- p. Chief of Staff, Army Division
- q. Assistant Adjutant General, Air Division
- r. Chief of Staff, Air Division
- s. Commander, Youth and Community Programs Task Force
- t. Chief of Staff, Youth and Community Programs Task Force
- u. Director, Strategic Communications

Glossary

- a. **Active Militia.** Comprised of the California Army and Air National Guard, the State Military Reserve and the Naval Militia (section 120, CMVC).
- b. **Budget Act.** The final budget bill passed by both houses of the state legislature and signed into law, after inclusion of any line-item vetoes, by the Governor.
- c. **California Military and Veterans Code (CMVC).** The legislative and legal authority for establishment of the Military Department, State Militia, SAD, and all administrative actions necessary for the conduct thereof.
- d. **California Public Employees Retirement System (CalPERS).** The system under which SAD personnel are afforded retirement benefits.
- e. **Concurrent jurisdiction.** Both the SAD chain of command and the Service Component chain of command (i.e., Army Guard, Air Guard, or CSMR) have jurisdiction over an SAD service member to impose UCMJ punishment under the CMVC.
- f. **Fiscal Year.** A 12-month period used for calculating annual financial statements in government, businesses, and other organizations. Regulatory laws regarding accounting require such reports once per twelve months, but do not require that the twelve months constitute a calendar year. The state fiscal year is 1 July - 30 June and the federal fiscal year is 1 October - 30 September.
- g. **Governor's Budget.** The annual state expenditure plan proposed by the Governor and introduced as a bill on 10 January for legislative action.
- h. **Indefinite Order.** An appointment order to SAD without an end date.
- i. **Leave Without Pay (LWOP).** A non-paid leave status granted for exceptional circumstances or for military purposes.
- j. **Limited-Term Position.** Positions authorized in the enacted Governor's Budget with a specified end date.
- k. **Military Furlough.** A non-paid status used for service members during extended periods of active military service that is not reported as leave.
- l. **Manpower and Personnel Advisory Council (MPAC).** An advisory group formed at the direction of The Adjutant General which meets monthly to manage the full-time forces of the CMD regardless of status.
- m. **Key Staff Positions.** These positions are permanent and include General Officer positions listed in section 161, CMVC, any position associated with a prospective General Officer appointment, or those positions in appendix B.
- n. **Pay and Allowances.** Entitlements based on federal military pay rates directed by sections 320 and 321, CMVC.
- o. **Pay Rate.** Pay level (classification) authorized for SAD positions shown in the Salary and Wages Supplement of the Governor's Budget with authorized modifications thereto.
- p. **Pay Warrant.** The term used to describe State of California paychecks.
- q. **Permanent Position.** Positions authorized in the Governor's Budget as separate line-items and duty titles.
- r. **Personnel Year (PY).** One service member working on a full-time basis for one year. One personnel year can also be generated by multiple service members working a combined total of one full year. Personnel year requirements are separate and distinct

from funding requirements to fill a position.

s. **Position Description (PD).** The position description (PD) is the base document that describes the duties, responsibilities, requirements, and qualifications for each position.

t. **Rank.** The insignia authorized for wear by the respective active militia component; that is, highest federal or State Military Reserve recognized grade.

u. **Reclassify.** The change of duties, responsibilities, title, grade, and/or location of a SAD position.

v. **Retired Annuitant.** A person retired from State of California who is performing limited employment for the State of California, appointed under the provisions of section 21224(a), CalPERS Law/Government Code. Retired Annuitant status does not apply to SAD service.

w. **Re-title.** To change the title or name of a position without changing the grade or location.

x. **Salary and Wages Supplement.** A companion document to the annual Governor's Budget listing all permanent positions, limited-term positions and temporary (SAD Tour) positions, by organizational unit in the Department. This document shows pay level classification, number of positions, and annual salary ranges.

y. **Selecting Supervisor.** The official who is designated to select the prospective appointee from the list of qualified candidate(s) provided by the Director, State Personnel.

z. **State Active Duty (SAD).** The status of personnel ordered to military duty under authority of The Adjutant General in accordance with the provisions of sections 55, 142, 161 or 230, CMVC.

aa. **State Active Duty Management Council (SMC).** The Council is comprised of the Assistant Adjutants General (Army and Air), the Director, Joint Staff, Commander, Youth and Community Programs Task Force, and chaired by the Deputy Adjutant General. It is the senior personnel management committee for SAD.

bb. **State Active Duty Instructions (SADI).** A memorandum of instruction published by the Director, State Personnel that announces policy and clarifies procedures. SADIs are also used to amend this regulation, in which case they require The Adjutant General's approval.

cc. **Temporary/Tour Position.** A position authorized within the Military Department's Salary and Wages Supplement as a blanket authority. Temporary positions, while not specified as to classification or pay rate, are individually accountable against the total Personnel Years (PY) for the Military Department.

dd. **Temporary Order.** An appointment order to SAD with a defined ending date within the current state or federal fiscal year. Service members with temporary appointments greater than 30 days are entitled to pay, allowances and benefits, which may include health, dental, vision, and life insurance.